IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3536 OF 2004
IN
CRIMINAL APPEAL NO.516 OF 2001

Ashok Durgadas Awasthi. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Mr.Amil Sali for Applicant.
Mr.D.P. Adsule, A.P.P. for the State.

CORAM : D.G. DESHPANDE, J.
DATED : NOVEMBER 3, 2004.

P.C. :-

1. Heard learned Advocate for the applicant and the learned A.P.P. for the State.

2. The accused is convicted under Section 489 IPC and sentenced to 5 years and under M.C.O.C. Act, he was sentenced to 10 years. He is in custody for the last five and half years. His earlier application for bail was rejected on 26th February, 2002 on merits. Now this application for bail for temporary period in order to enable the applicant to arrange the marriage of his daughter.

3. When the matter had appeared before me on the last occasion, I had asked the Advocate for the accused to produce documents to show about his residence in Karnatakla. He has filed the compilation of about 22 pages which are copies of passport and other documents showing his residence.

4. The accused is in custody for five and half years. His daughter is of marriageable age. The marriage of his nephew is scheduled on 22nd November, 2004 and according to him, if he attend the marriage, then he can easily fix the marriage of his daughter.

5. This bail application is opposed by A.P.P. on the ground that his earlier bail application was rejected on merits. He contended that even temporary bail cannot be granted to a person who is convicted under the M.C.O.C. Act. He contended that such a judgment has been given by Justice Khanwilkar but he does not possess the copy of the same at present.

6. Looking to the fact that the accused is in

custody for five and half years and that his daughter is of marriage age and looking to the documents tendered by him showing his residence at Karnataka, he can be released on temporary bail.

7. The accused be released for a period of four months from the date of his release on his execution of bond of Rs.20,000/- with one solvent surety therewith in the like amount. He will be staying in Haveri in Karnataka as given in the application and will report to Haveri Police once a week during this period. He will furnish the copy of this order to the Sr.P.I. of the said Police Station and if he fails to mark his presence even once during the aforesaid period of four months, Sr.P.I. will be entitled to take him into custody.

. Application disposed of.

(D.G. DESHPANDE, J.)